



FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 28, 1998

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1998-24

William J. Olson P.C.
8180 Greensboro Drive Suite 1070
McLean, Virginia 22102-3823

Dear Mr. Olson:

This refers to your letter dated October 8, 1998, which requests advice concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the possible status of the American Heritage Party ("the Party") as a State committee of a political party and its ability to make coordinated party expenditures on behalf of its two candidates for Federal office in the State of Washington.

You state that you have been authorized to represent the principal campaign committees of the Party's nominees for the U.S. House of Representatives in the 1998 general election. These committees are Bruce Craswell for Congress and John Beal for Congress. The Party intends to act as a State party committee in the State of Washington during the 1998 general election cycle (and thereafter), including making coordinated party expenditures related to the November 3, 1998, general election on behalf of both these committees.

Your request includes a copy of the Party's Constitution and Bylaws. Both these documents detail various aspects of the organization of the Party, including the manner in which a State convention is conducted to choose Presidential electors, State party officers, and delegates to the represent the Party at the national convention of the U.S. Taxpayers Party.¹ Your request also includes a letter from the U.S. Taxpayers Party

¹ In Advisory Opinion 1995-16, the Commission determined that the U.S. Taxpayers Party qualified as a national committee of a political party.

acknowledging the American Heritage Party as the sole Washington State affiliate of U.S. Taxpayers Party.² Finally, you provide letters from two candidates in the 1998 election cycle who have achieved ballot access as Federal candidates of the American Heritage Party and now associate themselves with the Party's request for State committee status.³

Under the Act and Commission regulations, the term "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level, as determined by the Commission. 2 U.S.C. §431(15); 11 CFR 100.14. The definition of State committee also requires the existence of a political party. The term "political party" is defined under 2 U.S.C. §431(16) and 11 CFR 100.15 as an association, committee, or organization which nominates a candidate for election to any Federal office whose name appears on the election ballot as the candidate of such association, committee, or organization.

The Commission has considered a variety of State party organizations in making these determinations. Advisory Opinions 1998-2, 1997-29, 1997-7, 1997-3, 1996-51, 1996-43, 1996-27, and 1995-49. In reviewing State party affiliates of entities that qualified as national committees of political parties under 2 U.S.C. §431(14), the Commission has looked to the existence of a State affiliate agreement which "delineates activities commensurate with the day-to-day operation of [a political party] on a State level," and then concluded that "[t]o the extent the relationship between [a political party] and an affiliate is based on this agreement and the affiliate displays evidence of activity by obtaining ballot access for both its Presidential and other Federal candidates, . . . [that] particular affiliate is a State Committee of the [political party]." Advisory Opinions 1998-2, 1997-7 and 1996-27. The Commission has also granted State party committee status to organizations that had affiliated status with national political parties that had not achieved national committee status, based on the existence of State Party by-laws detailing activities commensurate with the day-to-day operation of a party on the State level and the placement of at least one Congressional candidate on the ballot. Advisory Opinions 1997-29, 1997-7 and 1996-51. In reaching this conclusion, the Commission made clear that a State political party could qualify as a State party committee without an affiliation with any national political party organization and indicated that a State party's candidate must be a candidate under 2 U.S.C. §431(2) in order for that party to satisfy the second requirement. Advisory Opinion 1996-51; see also Advisory Opinion 1976-95.⁴ Recently, the Commission granted State committee status to a State affiliate of a qualified national party committee where its only Federal candidates, as defined under the Act,

² The Party Constitution explicitly refers to the Party as an affiliate of the U.S. Taxpayers Party. See Party Constitution, Article II.

³ These Washington State candidates are: Bruce Craswell, U.S. House candidate in the First Congressional District and John Beal, U.S. House candidate in the Fifth Congressional District.

⁴ An individual becomes a candidate for purposes of the Act if he or she receives contributions aggregating in excess of \$5,000, or makes expenditures in excess of \$5,000. 2 U.S.C. §431(2). Federal candidates must designate a principal campaign committee within 15 days after qualifying as a candidate, and the committee also becomes subject to various registration, recordkeeping, and reporting requirements. 2 U.S.C. §§432(e)(1), 433, and 434(a); 11 CFR 101.1, 102.1, and 104.1.

were the Presidential and Vice Presidential candidates of the national party. Advisory Opinion 1997-3.

As noted above, the Party's Constitution and By-laws set out a comprehensive organizational structure for the Party including the operation of a State convention and State and county parties. Party Bylaws, Article VII and IX; Party Constitution, Article V. The By-laws are, therefore, consistent with the State party rules reviewed in the opinions cited above as they delineate activity commensurate with the day-to-day functions and operations of a political party on a State level. Advisory Opinions 1997-29, 1997-7 1997-3, 1996-51, 1996-43, 1996-27, and 1995-49. In addition, the letter from the chairman of the U.S. Taxpayers Party documents and confirms the Party's status as a State affiliate of the U.S. Taxpayers Party. Therefore, the Commission concludes that the Party meets the first element.

As indicated above, the second element for qualifying as a State committee of a political party, and an essential element for qualifying as a political party, is that the party organization actually obtains ballot access for its Federal candidates, as defined in the Act. Both of the Federal candidates of the Party, who have attained ballot access in Washington, have registered their principal campaign committees and filed disclosure reports with the Commission. Further, the filed reports of these two candidates indicate that each of their campaigns received or expended in excess of \$5,000. Accordingly, each of them qualifies as a candidate under 2 U.S.C. §431(2). Therefore, the Commission concludes that the Party meets the second element.

In view of the fact that both elements discussed in this opinion have been satisfied, the Commission concludes that the American Heritage Party of Washington State qualifies as the State committee of a political party under the Act and Commission regulations.

Under 2 U.S.C. §441a(d), the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of the Party's Congressional candidates for Federal office. See 11 CFR 110.7 (b)(1).⁵ Therefore, the American Heritage Party (and the U.S. Taxpayers Party) may each make coordinated expenditures on behalf of its two 1998 Congressional candidates in Washington State: Bruce Craswell and John Beal.

⁵ Coordinated expenditures are subject to separate limits from those applicable to contributions. The limits, which are determined by a statutory formula, are adjusted from year to year to reflect changes in inflation and population. See 2 U.S.C. §441a(d)(3) and 11 CFR 110.7(b)(1). The 1998 limit for Washington State is \$32,550.

This response constitutes an advisory opinion concerning the application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. §437f.

Sincerely,

(signed)

Scott E. Thomas
Acting Chairman

Enclosures (AOs 1998-2, 1997-29, 1997-7, 1997-3, 1996-51, 1996-43, 1996-27, 1996-8, 1995-49, 1995-16, and 1976-95)